

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

UNION PACIFIC RAILROAD  
COMPANY, et al.,

Plaintiffs,

V.

INTERNATIONAL ASSOCIATION OF  
SHEET METAL, AIR, RAIL, AND  
TRANSPORTATION WORKERS -  
TRANSPORTATION DIVISION, et al.,

Defendants.

[illegible]

Civil Action No. 1:21-cv-05502

Honorable John Z. Lee

Magistrate Judge Jeffrey I. Cummings

## JOINT STATUS REPORT

Pursuant to the Court's instructions during the December 15, 2021 status hearing, Plaintiffs and Defendants submit the following report detailing the status of the case.

1. On December 15, 2021, the Court held a status hearing with the parties. The parties reported that Plaintiffs had suspended their vaccine requirements after a federal judge in Georgia enjoined enforcement of Executive Order 14042 for federal contractors on a nationwide basis (“the Contractor Mandate”). *See Georgia v. Biden*, No. 1:21-cv-163, 2021 WL 5779939 (S.D. Ga. Dec. 7, 2021), at \*12, *appeal filed*, No. 21-14269 (11th Cir. Dec. 10, 2021). The parties accordingly requested that the Court stay the above-captioned case pending resolution of the appeal. The Court stayed the case, including the proceedings related to the pending Motions for Preliminary Injunction, and asked the parties to submit a joint status report on the earlier date of (1) a decision by the Eleventh Circuit or (2) February 25, 2021. *See* ECF No. 66.

2. On December 17, 2021, the Eleventh Circuit (1) denied the Government's motion to stay the preliminary injunction and (2) set an expedited briefing schedule for the appeal of the preliminary injunction issued by the district court. *See Georgia, et al. v. President of the United States, et al.*, No. 21-14269 (11th Cir. Dec. 17, 2021). Under that schedule, briefing will be complete on January 24, 2022.

3. Also on December 17, 2021, the Sixth Circuit dissolved the Fifth Circuit's stay of the Occupational Health and Safety Administration's ("OSHA's") Emergency Temporary Standard ("ETS") regarding mandatory vaccination or testing for large employers that are not covered by the Contractor Mandate. *In re MCP No. 165, Occupational Safety & Health Admin., Interim Final Rule: COVID-19 Vaccination & Testing*, No. 21-7000, 2021 WL 5989357 (6th Cir. Dec. 17, 2021). That same day, the challengers to the OSHA ETS filed applications with the Supreme Court, asking the Court to re-impose a stay of that requirement. *See* ECF Nos. 387–394, *In re MCP No. 165, Occupational Safety & Health Admin., Interim Final Rule: COVID-19 Vaccination & Testing*, No. 21-7000 (6th Cir. Dec. 17, 2021).

4. At this time, Plaintiffs have not altered their policies in light of the Eleventh Circuit's or Sixth Circuit's decisions, and their vaccine requirements remain suspended.

5. The parties will promptly notify the Court if there are any changes in Plaintiffs' policies.

Respectfully submitted,

December 20, 2021

/s/Andrew J. Rolfes

Andrew J. Rolfes  
Robert S. Hawkins  
Jeremy J. Glenn  
Cozen O'Connor  
One Liberty Place  
1650 Market Street, Suite 2800  
Philadelphia, PA 19103  
(215) 665-2015  
arolfes@cozen.com  
rhawkins@cozen.com  
jglenn@cozen.com

*Attorneys for Union Pacific Railroad  
Company*

/s/ Samantha Woo

Samantha Woo (6310522)  
JONES DAY  
77 West Wacker Drive, Suite 3500  
Chicago, IL 60601-1692  
(312) 782.3939 (telephone)  
(312) 782-8585 (facsimile)  
swoo@jonesday.com

Donald J. Munro  
James M. Burnham  
JONES DAY  
51 Louisiana Ave., N.W.  
Washington, D.C. 20001  
(202) 879-3939 (telephone)  
(202) 626-1700 (facsimile)  
dmunro@jonesday.com  
jburnham@jonesday.com

*Attorneys for Norfolk Southern Railway Co.*

/s/Erika A. Diehl-Gibbons

Erika A. Diehl-Gibbons  
Shawn Mckinley  
Kevin C. Brodar  
Smart Transportation Division  
24950 Country Club Boulevard, Suite 340  
North Olmsted, OH 44070  
(216) 228-9400  
ediehl@smart-union.org  
smckinley@smart-union.org  
kbrodar@smart-union.org

*Attorney for Defendants International Association  
of Sheet Metal, Air, Rail, and Transportation  
Workers-Transportation Division*

/s/Joshua D. McInerney

Joshua D. McInerney  
James Petroff  
Wentz, McInerney, Peifer & Petroff, LLC  
3311 Bear Pointe Cir.  
Powell, OH 43065  
(614) 756-5566  
jmcinerney@lawforlabor.com  
jpetroff@lawforlabor.com

Matthew Pierce  
Ryan A. Hagerty  
Asher, Gittler & D'Alba, Ltd.  
200 W. Jackson Blvd., Suite 720  
Chicago, IL 60606  
(312) 263-1500  
mjp@ulaw.com  
rah@ulaw.com

*Attorney for Defendants Brotherhood of  
Locomotive Engineers and Trainmen*

/s/Richard S. Edelman

Richard S. Edelman  
Mooney, Green, Saindon, Murphy and Welch PC  
1920 L Street NW, Suite 400

Washington, D.C. 20036  
(202) 783-0010  
Redelman@Mooneygreen.com

*Attorney for Defendants  
Brotherhood of Maintenance of Way Employees  
Division of the International Brotherhood of  
Teamsters and Brotherhood of Railroad  
Signalmen*

**CERTIFICATE OF SERVICE**

I hereby certify that, on December 20, 2021, the foregoing Joint Status Report was filed using the Court's CM/ECF system.

/s/ Samantha Woo

Samantha Woo

*Counsel for Norfolk Southern Railway Co.*